

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 99-1435 (GAG-MEL)

V.

COMMONWEALTH OF PUERTO RICO, et al.,

Defendants.

IMPORTANT INFORMATIVE MOTION REGARDING MORTALITY REVIEW

COMMITTEE AND JCC'S RECOMMENDATIONS TO PROMOTE PARTICIPANT OUTINGS

TO THE HONORABLE COURT:

COMES NOW the undersigned as Joint Compliance Coordinator (“JCC”)/ Federal Monitor, who respectfully informs the Court as follows:

A. Notice Regarding the Mortality Review Committee

1. It has been brought to the attention of the JCC that the Chairman of the Mortality Review Committee (“MRC”), Dr. Reynaldo Rodríguez Llauger, has not been rendering his services for over a month because his contract has not been renewed by the DSPDI, among other material matters. In relation to the MRC, we have also received information that the Coordinator of the MRC has also been removed and/or terminated from her essential position without notice to the JCC, the Court and USDOJ₁.

¹ Although the DSPDI has been in constant communication with the JCC through Court-ordered updates and continuous requests for information, including communications regarding the MRC, the present matter has not been informed by the DSPDI.

Civil No. 99-1435 (GAG-MEL)

1 2. The JCC is extremely concerned of the impact that these changes in the MRC could
2 have on the continuation of the essential services that the participants require and in the
3 timely preparation of the mortality reports. Although, significant work is yet to be done,
4 it is through Dr. Rodríguez Llauger's leadership as chairperson of the MRC, that the
5 completion of the outstanding mortality reports has been expedited and furnished as
6 mandated by the JCAP, especially post hurricanes Irma and Maria.

7 3. On August 7, 2020, the DSPDI's Compliance Officer informed the JCC that within the
8 next three months, the MRC would complete the reports that are due for participants'
9 deaths that have occurred in 2020, including those deaths that occurred up until August
10 7, 2020. The undersigned is concerned with the effect that the current scenario with
11 the MRC will have in the timely preparation of the MRC reports that are due and that
12 will be due in the coming week and with the fact that it cannot assess whether the same
13 have been prepared in an independent manner.

14 4. Moreover, the JCC feels compelled to state that Dr. Rodríguez Llauger underwent a
15 thorough vetting process by the Office of the JCC, including the undersigned, to assess
16 his capability of being independent from the DSPDI (pursuant to Section III-5N(1) of
17 the JCAP). Dr. Rodríguez Llauger demonstrated his commitment to independent
18 evaluations throughout the mortality reports that were rendered during his tenure as
19 chairman of the MRC.

20 5. In light of the above, the undersigned requests that the DSPDI furnish any and all
21 information regarding the MRC, including but not limited to, the following:

22 a) Name, position and CV of every person that currently renders services to the MRC;
23 b) The official minutes of the last MRC meeting and remedial recommendations;

Civil No. 99-1435 (GAG-MEL)

- c) Name, CV and contact information (such as as email and phone number) of the chairperson of the MRC (or a list of the candidates that are presently being considered) and detail of the selection, vetting and appointment process; and
- d) Any other information regarding the MRC that the JCC should be aware of.

As we have done in the past with no objections, the JCC wants to collaborate in the vetting process of the new chairperson of the MRC. The JCC also wants to know what vetting system will be implemented to guarantee the independence that the position requires pursuant to the JCAP and in order to avoid that the MRC becomes a rubber stamp of the DPSDI which would defeat the objectives of the Consent Decree.

Given the important nature of the matter at hand and considering the repeated problems that we have confronted in the past with the MRC and the mortality reports, the JCC recommends that the sought information (which should be readily available) be furnished by 3:00pm tomorrow.

B. Notice Regarding the JCC's Recommendations to Promote Participant Outings

1. It has been brought to the JCC's attention that participants from Dulce Amanecer III community home were recently taken for an outing which included a quick stop at the beach, among other places. According to the information received by a JCC source, said outing was approved by the DSPDI.
2. As previously stated, the JCC encourages and recommends that this type of activities for participants take place as soon as possible (See Docket No. 3029), but it is imperative that the same be previously informed and approved by the Court and that said activities be carried out uniformly throughout the seven (7) regions.

Civil No. 99-1435 (GAG-MEL)

1 3. Once again, the above situation is surprising to the JCC given that the DSPDI expressed
2 that it did “not feel comfortable moving forward, at this time, with the (JCC’s)
3 recommendation of providing these temporary services to the participants” (emphasis
4 added) due to the consistent increase in COVID-19 cases (See Docket No.3059).

5 4. As a result of the aforementioned motion, the Court instructed the DSPDI to file an
6 informative motion on the matter by September 25, 2020, taking into account the future
7 COVID-19 statistics then (See Docket No. 3062). Notwithstanding the above, the
8 DSPDI clearly acted against its own representations to the Court, which in turn
9 generates distrust and uncertainty moving forward with issues of material importance
10 to the safety and well-being of all participants during the pandemic.

11 5. The JCC wishes to reiterate the importance of conducting this type of activities which
12 are extremely beneficial for the health and well-being of participants looking ahead
13 towards a future that must contemplate the reactivation of daily services and
14 individualized updated individualized support for all participants. Nevertheless, the
15 above recommendation and collective aspiration must follow the necessary safety
16 measures that are warranted in the middle of a pandemic.

17 6. The JCC is also cognizant of the burn-out factor that the providers are facing in these
18 dire times which make these types of activities essential, but the same must be carried
19 out pursuant to the directives of the Court and should be extensive to all participants.

20 7. On the other hand, the JCC once again found out about the present situation through
21 third parties instead of the DSPDI. **Evidently, the DSPDI refuses to timely and**

Civil No. 99-1435 (GAG-MEL)

1 **adequately inform the JCC Office, the Court and USDOJ of matters that are of**
2 **material importance to the safety and well-being of all participants.**

3 **WHEREFORE**, the JCC respectfully requests that Court take notice of the above for all
4 relevant purposes and issue the directives it may deem necessary.

5 **RESPECTFULLY SUBMITTED.**

6 In San Juan, Puerto Rico, this 3rd day of September 2020.

7
8 **S/ ALFREDO A. CASTELLANOS**
9 **ALFREDO A. CASTELLANOS**
10 Joint Compliance Coordinator
11 Federal Monitor's Office (JCC)
12 Cond. Madrid, Suite 304
13 Calle Loíza 1760
14 San Juan, PR 00911
15 Tel. 787-641-8447
16 Fax. (787)793-4495

17 alfredo@cglawpr.com

18 **NOTICE OF ELECTRONIC FILING**

19 **I HEREBY CERTIFY**, that on this date, I electronically filed the foregoing with the Clerk
20 of the Counseling the CM/ECF system, which will notify copy to the attorneys of record.

21
22 **S/ ALFREDO A. CASTELLANOS**
23 **ALFREDO A. CASTELLANOS**
24 Joint Compliance Coordinator
25 Federal Monitor's Office (JCC)
26 alfredo@cglawpr.com